IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 21589 of 1994

Between:

Vesapogu Sudhakar Rao, S/o. Sri Moses, aged about 35 years,
R/o. Peddaravidu (V), Prakasam Dist.

..... PETITIONER

AND

The Divisional Manager/Regional Manager, APSRTC

Ongloe Division/Region, Ongole, Prakasam Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the impugned proceedings No.03/590(72)/93-Dv.M 'O' , dt. 3.10.1994 on the file of the respondent and quash the same as arbitrary and illegal by way of issue of Writ of Certiorari or any other appropriate Writ or order or orders.

For the Petitioner : Mr. A. SANJEEV KUMAR, ADVOCATE

For the Respondent : SMT.A.VIJAYANTI (SC FOR APSRTC)

The Court made the following :

ORAL ORDER

This Writ Petition is filed by the petitioner seeking a direction in the nature of Writ of Certiorari or order to call for the records relating to the impugned proceedings No. 03/590(72)/93-Dv.M 'O' dated 3.10.1994 on the file of the respondent and quash the same as arbitrary and illegal.

The petitioner's case is that prior to the nationalization of bus routes, he was working as a Driver in the vehicle bearing No. TNM 6955, belonging to one Smt. J. Seshamma. Though he worked for a period of two years in the said vehicle, due to nationalization of bus routes he has become displaced person. As per the circulars issued by the A.P.S.R.T.C. he is entitled for appointment in the displaced employees quota. However, when he was not considered for appointment as Driver, he was constrained to approach this Court and filed Writ Petition No. 10109 of 1989 and this Court by its order dated 15.10.1992 disposed of the said writ petition directing the respondents to consider his case as and when the Corporation needs the appointment of drivers. It is his further case that pursuant to the disposal of the said writ petition, the petitioner was asked to appear before the Selection Committee on 29.3.1994 and though he was fully qualified to be appointed as a driver, the

Selection Committee has refused his case on the ground that he does not possess the requisite qualifications such as height and possessing a heavy permanent vehicle licence and accordingly issued proceedings on 3.10.1994. The said proceeding is impugned in this writ petition.

A counter-affidavit has been filed by the Respondent-corporation stating that the petitioner does not satisfy the requirements i.e. when the required height is 163 cm., the petitioner's height is only 158 cm and does not have the endorsement in the licence that he is permitted to drive the said heavy passenger vehicle.

Heard the learned counsel for the petitioner.

From the narration of events as well as the material available on record, it is clear that the respondent-corporation had issued a circular No. PD-57/1989, dated 27.5.1989 by which an exemption of 2" is permitted in the case of displaced employees. In the instant case, when the ratio prescribed in the said circular is applied, the petitioner's case can definitely be considered for the post of driver. So far as the second contention put forth by the respondent-corporation that the petitioner is not having the required endorsement in the licence that he is permitted to drive heavy passenger vehicle is concerned, the petitioner could not produce anything before the Court to establish the fact that he is entitled to drive heavy passenger vehicles, but according to the learned counsel for the petitioner, the petitioner is having the required endorsement in the licence and it is only on such production before the concerned authorities, the authorities may be directed to consider the case of the petitioner. The petitioner is fighting this litigation right from the year 1988. In fact, if the respondent authorities are unable to consider the case of the petitioner for absorption as a driver, in my considered view they should have consider his case for appointment at least as a cleaner in the Corporation instead of driving the petitioner to pursue his legal remedies.

Hence, this Court is of the view that the respondent-corporation may afresh consider the case of the petitioner for absorption as a driver taking exemption of 2" issued in the Circular No. PD-57/1989, dated 27.5.1989. Further, the petitioner is directed to produce his driving licence to establish the fact that he is permitted to drive heavy passenger vehicle, in case the petitioner cannot be absorbed as a driver, the respondent is directed to consider his case for absorption in the Corporation as a cleaner.

This writ petition is accordingly allowed. No costs.

_____ 9th September, 2004

vp

ASST. REGISTRAR

//TRUE COPY//

SECTION OFFICER

TO

1. The Divisional Manager/Regional Manager, A.P.S.R.T.C., Ongole Division/Region, Ongole, Prakasam District,
2. 2 C.Cs to Smt. A. Vyjayanti, Standing Counsel for APSRTC
3. 2 C.D. copies.